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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/475,448	12/30/1999	David Johnston LYNCH	RCA-89-385	6337

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EXAMINER	
CHUNG, JASON J	
ART UNIT	**PAPER NUMBER**
2611	7

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/475,448	LYNCH, DAVID JOHNSTON	
	Examiner	Art Unit	
	Jason J. Chung	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10 February 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 2/10/03 have been fully considered but they are not persuasive.

The applicant argues that the copending application # 09/475,447 is patentably distinct from the instant application. The applicant states no reason as to why the copending application is patentably distinct other than restating the claimed invention and saying they are patentably distinct. The examiner respectfully disagrees with this assertion and maintains the same grounds of provisional obviousness type double patenting with the same motivation as stated below.

The applicant argues that the copending application # 09/475,449 is patentably distinct from the instant application. The applicant states no reason as to why the copending application is patentably distinct other than restating the claimed invention and saying they are patentably distinct. The examiner respectfully disagrees with this assertion and maintains the same grounds of provisional obviousness type double patenting with the same motivation as stated below.

The applicant's arguments with regards to claims 1-5 rejections, which are summarized on page 7, lines 6-12, state that "Casement neither discloses nor suggests allowing a supervisor to temporarily modify the user's ratings profile, while maintaining the previously entered restrictions as in the present claimed invention. The present claimed invention automatically restores the restrictions placed on a user rating profile when the temporary modification is completed."

The applicant's arguments with regards to claims 1-5 rejections, which are summarized on page 7, lines 6-12, state that "Casement neither discloses nor suggests allowing a supervisor

to temporarily modify the user's ratings profile, while maintaining the previously entered restrictions as in the present claimed invention. The present claimed invention automatically restores the restrictions placed on a user rating profile when the temporary modification is completed."

The examiner respectfully disagrees with this assertion. As disclosed in claim 1 rejection, Casement discloses the period of locking is from 2:30 PM-5:00 PM (figure 2E). Casement discloses the period for unlocking is from 5:00 PM-2:30 PM (figure 2E). Furthermore, as disclosed in claim 1 rejection, Casement discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36). In the embodiment of the program being locked with a combination of channel, rating, **and** time, the supervisor locks the program from 2:30-5:00 PM everyday, thus, the program is unlocked everyday from 5:00 PM-2:30 PM (restore at end of period) everyday, which reads on automatically restores the normal profile at the end of the period.

Regarding claims 6-9 rejections, Casement discloses one profile that combines ratings locks and automatically restores the normal profile at the end of the period as disclosed in the prior paragraph (column 3, lines 33-36); the multiple lists of blocking programs by rating, time, channel, content, and spending read on a profile. Schein discloses multiple profiles for users. Claim 6 states one **or** more profiles. The examiner rejects the **or more** part of the claim with the combination of Casement in view of Schein. Schein discloses profiles for one **or more** users (column 12, lines 35-52).

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,447. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application is broader than claim 1 of 09/475,447.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,447, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 6 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 5 of copending Application No. 09/475,447. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the additional limitation of receiving one or more profiles comprising of ratings limits, and/or spending limits, and or view time limits for each profile from a supervisor. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify claim 5 of 09/475,447 to include the feature noted above in order to allow a supervisor to enter the system set up appropriate profiles for each user.

Allowance of claim 6 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 5 of 09/475,447, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 09/475,447. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 7 of the instant application is broader than claim 8 of 09/475,447.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 8 of 09/475,447, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 7 of copending Application No. 09/475,447. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 9 of the instant application is broader than claim 7 of 09/475,447.

Allowance of claim 9 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 7 of 09/475,447, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the instant application is broader than claim 1 of 09/475,449.

Allowance of claim 1 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 1 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 6 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 6 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the additional limitation of receiving one or more profiles comprising of ratings limits, and/or spending limits, and or view time limits for each profile from a supervisor. It would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify claim 6 of 09/475,449 to include the feature noted above in order to allow a supervisor to enter the system set up appropriate profiles for each user.

Allowance of claim 6 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 6 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 7 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 4 of copending Application No. 09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the additional limitation of receiving one or more profiles comprising of ratings limits, and/or spending limits, and or view time limits for each profile from a supervisor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 4 of 09/475,449 to include the feature noted above in order to allow a supervisor to enter the system set up appropriate profiles for each user.

Allowance of claim 7 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 4 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim 9 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No.

09/475,449. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the additional limitation of receiving one or more profiles comprising of ratings limits, and/or spending limits, and or view time limits for each profile from a supervisor. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify claim 8 of 09/475,449 to include the feature noted above in order to allow a supervisor to enter the system set up appropriate profiles for each user.

Allowance of claim 9 would result in an unwarranted time-wise extension of the monopoly previously granted for the invention defined by claim 8 of 09/475,449, therefore, obviousness type double patenting is appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Objections

3. Claim 6 is objected to because of the following informalities: line 2 of claim 6 states, "which his". The examiner interprets line 2 of claim 6 to state, "which is". Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by Casement.

Regarding claim 1, Casement discloses a TV schedule system for controlling access to TV programs (column 2, lines 50-52) meets the limitation of a video signal processing system for producing an output signal suitable for coupling to a display device to produce a displayed image. Casement discloses a ratings control system which blocks viewing of programs which are broadcast with ratings (figure 2D) or spending information (figures 2F and 2G) which are outside a normal profile set by a supervisor, which permits the supervisor to temporarily modify the ratings profile (figure 2D), and which automatically restores the normal profile at the end of the period (figure 2E). Casement discloses the programs may be blocked by channel, rating, content, **and/or** time (column 3, lines 33-36), which means that any combination of blocking program(s) may be used.

Regarding claim 2, Casement discloses turning to a program that is blocked and having to enter a password to unblock the program (column 6, lines 1-3) meets the limitation on the system permitting the supervisor to unblock one specific broadcast program. Casement discloses unblocking programs by content (figure 2E), which meets the limitation unblocking specific broadcast programs. Casement discloses the programs may be blocked by channel, rating,

content, **and/or** time (column 3, lines 33-36), which means that any combination of blocking channels may be used and meets the limitation of unblocking one or more channels for a time period, specify a revised ratings profile or spending limit for a specific period.

Regarding claim 3, Casement discloses means to display a status listing of channels unblocked and the corresponding time periods (figure 2C).

Regarding claim 4, Casement discloses television receivers 16, 18, 20, and 22 (column 2, lines 58-60 or figure 1). Casement discloses a set-top box 38 (figure 1), which meets the limitation of a cable box. Casement discloses VCRs 32 and 26 (figure 1).

Regarding claim 5, Casement discloses limiting the view time in the normal profile, and allowing the supervisor to temporarily override the view time limit (figure 2E).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 6-9 rejected under 35 U.S.C. 103(a) as being unpatentable over Casement in view of Schein.

Regarding claim 6, claim 1 is a video signal processing system, whereas claim 6 is the method performed by the video signal processing system. Casement discloses a method (claim 1 of Casement). Casement discloses the limitations on claim 6 in claim 1 rejection for the profile

of the supervisor. Casement discloses a television schedule system (column 2, lines 50-52). Casement fails to show more than one profile comprising of all the limitations.

Schein discloses users identifying themselves on a system either by name, code word, or user number and producing a guide with favorite programs (column 12, lines 39-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Casement to have the television schedule system have user IDs for different users as taught by Schein in order to have personal preferences saved on the profiles of each individual user.

Regarding claim 7, the limitations in claim 7 have been covered in claim 6 rejection. Claim 7 is a ratings control apparatus, whereas claim 6 is a method performed by the apparatus. Casement discloses a ratings control apparatus (claim 13 of Casement). Additionally, Casement discloses automatically restoring the normal ratings control range at the expiration of the ratings or completion of selected programs (figure 2E)

Regarding claim 8, the limitations in claim 8 have been covered in claim 5 rejection. Claim 8 is a ratings control apparatus, whereas claim 5 is a system. Casement discloses a ratings control apparatus (claim 13 of Casement).

Regarding claim 9, the limitations on profile, permit and deny, returning to normal have been covered in claim 7 rejection. Casement discloses PCTVs being used (column 3, lines 10-13) which meets the limitations on apparatus comprising of a processor. Casement discloses the 'Unlock All Locks' feature toggling and becoming 'Relock All Locks' when the Unlock feature is selected (column 5, line 61-66), which meets the limitation on removal of override by the supervisor. Casement discloses individual channels being selected for recording from the guide

after the correct password has been provided (column 6, lines 13-29). Casement discloses the user tuning off a previously locked channel thereby automatically restoring the locking and having to reenter a password if access is to be permitted (column 6, lines 1-12). The previous two sentences describing what Casement discloses meets the limitations on returning to the normal viewer profile after completion of recording permitted in the temporary override instructions.

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason J. Chung whose telephone number is (703) 305-7362. The examiner can normally be reached on M-F, 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 308-6606 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

JJC
May 5, 2003

ANDREW FAILE
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